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COUNTY BOARD, LAKE COUNTY, ILLINOIS

ADJOURNED REGULAR JUNE A.D., 2008 SESSION

AUGUST 12, A.D., 2008

MADAM CHAIR AND MEMBERS OF THE COUNTY BOARD:

Your Public Works and Transportation Committee and Financial and Administrative Committee present herewith a Joint Resolution authorizing execution of a Restated and Amended Agreement for Sewage Disposal and Certain Special Services with the Village of Riverwoods; and request its adoption.

Respectfully submitted,

Alanna O'Kelly Aye Nay
 CHAIR

OTR Aye Nay
 CHAIR

Donna ✓
 VICE CHAIR

Jim Flagg ✓
 VICE CHAIR

Ann B. Marie ✓

Donna *

Terese Douglas ✓

Carol Galabesa ✓

Michael S. Calvert ✓

Alanna O'Kelly ✓

Donna ✓

[Signature]

PUBLIC WORKS AND TRANSPORTATION COMMITTEE

FINANCIAL AND ADMINISTRATIVE COMMITTEE

**RESTATED AND AMENDED AGREEMENT
FOR SEWAGE DISPOSAL AND CERTAIN SPECIAL SERVICES
FOR THE VILLAGE OF RIVERWOODS**

Entered Into By and Between

THE COUNTY OF LAKE, ILLINOIS

and

THE VILLAGE OF RIVERWOODS, ILLINOIS

As of

_____, 2008

RESTATED AND AMENDED AGREEMENT FOR SEWAGE DISPOSAL

THIS AGREEMENT ("**Agreement**") made and executed this ____ day of _____, 2008, between the VILLAGE OF RIVERWOODS, an Illinois municipal corporation located in Lake County, Illinois, hereinafter referred to as the "**Village**", and the COUNTY OF LAKE, Illinois, hereinafter referred to as the "**County**,"

RECITALS:

A. The public health, welfare, and safety of the residents of the Village and the residents of the County require the development of coordinated and adequate systems for the collection, treatment and disposal of sewage so as to eliminate pollution of lakes and streams. All capitalized terms used but not defined in these Recitals shall have the meanings given to such terms in Article II below.

B. The County has established a Department of Public Works pursuant to an Act of the General Assembly of the State of Illinois entitled "An Act in Relation to Water Supply, Drainage, Sewage, Pollution, and Flood Control in Certain Counties", as amended, for the purpose of performing the function of sewage disposal and has prepared a comprehensive plan for the disposal of sewage from areas of the County, including portions of the Southeast Lake County Facilities Planning Area ("**SEFPA**") established pursuant to the Illinois Water Quality Management Plan, and has prepared plans and programs for providing such service and the related facilities.

C. Pursuant to such plans and programs, the County, in the SEFPA, has constructed, owns, and operates a system of interceptor sanitary sewers and the Des Plaines River Water Reclamation Facility (the "**Des Plaines WRF**") to provide Sanitary Sewer Service.

D. The County and the Village have previously entered into an Agreement for Sewage Disposal, dated as of the 18th of April 1972 (the "**Prior Sewage Agreement**"), pursuant to which the Village Sewerage System is delivering Sewage from Village customers to County Interceptors for treatment at the Des Plaines WRF. The Prior Sewage Agreement is scheduled to expire within five years, and the parties desire to amend and restate its terms in their entirety.

E. Under the Prior Sewage Agreement, the County has provided Sanitary Sewer Service to the incorporated territory of the Village; however for purposes of this Agreement, the parties wish to stipulate that if certain unincorporated parcels contiguous to the Village, which have been the subject of on-going annexation discussions with the Village, are subsequently annexed to the Village, they will also be served by the County. The existing incorporated territory of the Village and the proposed annexation parcels are collectively referred to herein as the "**Village of Riverwoods Sewer Service Area**" and shown in the map attached as **Exhibit A** hereto. The portion of the Village Sanitary Sewerage System which is the Low Pressure Sewer System is also depicted on **Exhibit A**.

F. Under the Prior Sewage Agreement, the County has been providing certain special services as hereafter described with respect to the maintenance and emergency repair of the Village Sewerage System (other than the Low Pressure Sewer Facilities) and the emergency repair of the Village Water Mains, even though the County normally does not provide such services for municipalities. One service provided by the County to the Village is the direct billing of Village Customers. Under the Prior Sewage Agreement, the charges billed to Village Customers included a component that reimbursed the County for providing its special services to the Village. However, in one area of the Village, such special services and charges were not applicable because the Sanitary Sewers in that area were constructed by the County as part of a County special service area formed pursuant to "An Ordinance to Establish Special Service Area No. 5", enacted by the County on and dated July 12, 1983, and all amendments thereto (herein called "**County Special Service Area No. 5**"). The County continues to own, maintain, repair and replace the Sanitary Sewers installed as part of County Special Service Area No. 5.

G. The Village and the Village of Lincolnshire ("**Lincolnshire**") have entered into that certain intergovernmental agreement dated September 13, 1994, pursuant to which the villages have acknowledged that certain properties in Lincolnshire discharge Sanitary Sewage which transits through the Village Sewerage System before reaching County Interceptors, and certain properties in the Village discharge Sanitary Sewage which transits through the Lincolnshire sanitary sewerage system before reaching County Interceptors. In that intergovernmental agreement, the Village and Lincolnshire have agreed to a formula for reimbursing each other for the costs of transporting such sanitary sewage. The County bills all Village Customers and does not treat those Village Customers differently whose properties are tributary to the Lincolnshire sanitary sewage system. The County's billing services are not affected by any financial adjustments made between the villages concerning these properties. For those properties in Lincolnshire which are tributary to the Village Sanitary Sewage System, as with all properties in Lincolnshire, Lincolnshire is the billing agent.

H. The map attached as **Exhibit B** hereto shows the following: (i) those properties in the Village and in Lincolnshire which are tributary to each other's sanitary sewage systems; (ii) the boundary of County Special Service Area No. 5, (iii) those Sanitary Sewers located in the Village which are owned by the County and serve as County Interceptors as distinguished from the other Sanitary Sewers located in the Village which are owned by the Village and are part of the Village Sewerage System.

I. The map attached as **Exhibit C** hereto shows the following: (i) those properties in the Village which pay Connection Charges applicable to properties tributary to the Portwine Road Lift Station and (ii) those properties in the Village which pay Connection Charges applicable to properties tributary to the County Interceptors but not tributary to the Portwine Lift Station.

J. The County and the Village are authorized by the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) to enter into intergovernmental agreements, ventures and undertakings, to perform jointly any governmental purpose, or undertaking, either of them could do singularly, and by virtue of the same authority to amend the Prior Sewage Agreement previously executed in accordance with the Illinois Intergovernmental Cooperation Act.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein, the County and the Village do hereby agree as follows:

ARTICLE I

RECITALS

The foregoing recitals are, by this reference, fully incorporated into and made a part of this Agreement.

ARTICLE II

DEFINITIONS

When used in this Agreement, and notwithstanding any other meanings, understandings, or definitions ascribed by common usage or otherwise for any other purpose, the following terms shall have the meanings herein ascribed to them and no other:

2.1 Additional User Charges.

As defined in Section 6.2E.

2.2 Collection or Collect.

The receipt of or to receive Sewage directly from the service connection of an individual Customer and the delivery of such Sewage to the County Interceptors or to any other provider of Transport or Treatment services.

2.3 Comprehensive Plan.

The Regional Wastewater Plan of the County of Lake approved by resolution of the County dated December 17, 1968, and amended from time-to-time thereafter.

2.4 Connection Charges.

The charges from time-to-time imposed by the County on Village Customers newly connecting to the County Sewerage System as a condition of such connections, expressed as a fee per connection based on the number of Residential Equivalents for the connection properties determined pursuant to County Sewer Ordinances.

2.5 County Interceptors.

The system of Sanitary Sewer interceptors, and related facilities, tributary to the Des Plaines WRF, as generally described in the Comprehensive Plan, constructed within the SEFPA, that the County owns and operates pursuant to the Comprehensive Plan, together with such extensions of, and additions to, such system of interceptors and facilities as may be owned and operated by the County. The County Interceptors located within the Village are shown in **Exhibit B** hereto.

2.6 County Sewerage System.

The County Interceptors, and all other Sanitary Sewers, lift stations, connection facilities, and related facilities, as well as associated land, easements, and rights-of-way, that the County, from time-to-time, owns or operates for the purpose of, or related to, Transporting Sewage within the SEFPA to the Des Plaines WRF or such other treatment plants as the County may utilize to provide Sanitary Service to Customers residing within the SEFPA. The County Sewerage System includes three (3) lift stations located within the corporate limits of the Village: the Portwine Road Lift Station, the Deerfield Road Lift Station and the Saunders Road Lift Station.

2.7 County Sewer Ordinances.

An ordinance entitled "An Ordinance Regulating the Use of Public and Private Sewer and Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewer Systems of the County of Lake in the State of Illinois," enacted by the County on and dated February 9, 1988; and an ordinance entitled "Lake County Sanitary Sewer Fates, Oils and Greases (FOG) Ordinance" enacted by the County on and dated November 14, 2006; and all amendments to any of the foregoing as have been or may be enacted from time-to-time, and any and all other ordinances adopted or rules promulgated by the County relating in any way to the County Sewerage System or to the Collection, Transport, Pretreatment, or Treatment of Sewage in the County.

2.8 Customer.

Any dwelling, business, office, industrial, institutional, or other building, facility, or entity that discharges Sewage, either directly or indirectly, into the County Sewerage System.

2.9 **Deerfield Road Lift Station.**

The County's lift station, forming part of the County Sewerage System, located at Deerfield Road and the Des Plaines River and within the corporate limits of the Village.

2.10 **Des Plaines WRF.**

The treatment plant and related facilities that the County owns and operates along Aptakisic Creek (a tributary of the Des Plaines River) to which some of the County Interceptors in Riverwoods, Illinois are tributary, pursuant to the Comprehensive Plan, together with extensions of, and additions to, such plant and facilities.

2.11 **Effective Date.**

The date on which this Agreement shall become effective pursuant to Subsection 9.8 of this Agreement.

2.12 **Force Majeure.**

Orders of the United States, State of Illinois, or other civil or military authority, changes in applicable law, strikes, lock-outs, acts of God, inability to obtain labor or materials, enemy action, civil commotion, fire, unavoidable casualty, or other similar events or circumstances.

2.13 **Industrial Waste.**

Liquid and water-carried waste discharged, permitted to flow, or escaping from industrial, manufacturing, or production processes, or from the development, recovery, or processing of any natural resource.

2.14 **Inflow and Infiltration.**

Water that enters a Sanitary Sewer from the surrounding soil or from illegal or unauthorized storm water connection(s) or conduit(s).

2.15 **Low Pressure Sewer System.**

The low-pressure forcemain sanitary sewer mains and associated grinder pumps and facilities that the Village employs to provide Sanitary Sewer Service in areas of the Village, as depicted on Exhibit A, where gravity mains cannot be employed.

2.16 **Portwine Road Lift Station.**

The County's lift station, forming part of the County Sewerage System, located at Portwine Road and Lake Cook Road and within the corporate limits of the Village.

2.17 Pretreatment.

The process, or any portion of the process, of changing the physical, chemical, or biological character of Sanitary Sewage or Industrial Waste so as to meet the pretreatment standards promulgated under Section 307(b) and 307(c) of the Federal Clean Water Act, or any amendment thereto, as well as any pretreatment standards heretofore or hereafter established in the County Sewer Ordinances.

2.18 Replacement Reserve Percentage.

As defined in Section 6.2E.

2.19 Residential Equivalent (or Residential Customer Equivalent or RCE).

As determined from time-to-time by the County in accordance with the County Sewer Ordinances, one (1) Residential Customer Equivalent (RCE) is the water use and wastewater generation volume and characteristics of a typical single family residence or dwelling unit and is hereby agreed to be 8,000 gallons per month (and each dwelling unit in a townhome, condominium or other multifamily development shall be assigned one (1) RCE regardless of unit size). Commercial, institutional and industrial properties shall be assigned RCE based upon the coefficients set forth in **Exhibit D** attached hereto.

2.20 Sanitary Sewage.

Liquid and water-carried waste discharged from the plumbing fixtures of dwellings and other buildings, but not including such waste discharged from any industrial process.

2.21 Sanitary Sewer.

Any sewer that carries Sewage.

2.22 Sanitary Sewer Service.

The Collection, Transport and Treatment of Sewage, or any combination of one or more of such activities.

2.23 Saunders Road Lift Station.

The County's lift station, forming part of the County Sewerage System, located at Saunders Road and East Course Drive and within the corporate limits of the Village.

2.24 Southeast Area Retail Rate.

The User Charges generally charged by the County for Customers located in unincorporated portions of the SEFPA, and which, pursuant to the provisions of this Agreement, will also be charged to all Customers located in the Village.

2.25 Southeast Area Wholesale Rate.

The User Charges generally charged by the County for Customers in cities and villages (other than the Village) located in the SEFPA.

2.26 Sewage.

Sanitary Sewage, including such Infiltration Water as may be permitted pursuant to the County Sewer Ordinances.

2.27 SEFPA.

The Southeast Lake County Facilities Planning Area as established in the Illinois Water Quality Management Plan, as such plan may be amended from time-to-time.

2.28 Special Services.

As defined in Section 6.1.

2.29 Transport.

The conveyance of Sewage from the point or points of discharge of the Village Sewerage System to the Des Plaines WRF or to any other provider of Treatment service.

2.30 Treatment.

The process, or any portion of the process, of changing the physical, chemical, or biological character or composition of Sanitary Sewage under the standards of the County Sewer Ordinances or the Federal Clean Water Act.

2.31 User Charges.

The standard rates, fees and charges charged by the County to Customers for use and service of the County Sewerage System, as established by ordinances adopted from time-to-time by the County Board of Lake County.

2.32 Village Connection Charges.

The charges from time-to-time imposed by the Village on Customers newly connecting to the Village Sewerage System or County Sewerage System as a condition of such connections, expressed as a fee per connection based on the number of Residential Equivalents for the connection properties determined pursuant to the ordinances of the Village.

2.33 Village Customers.

All Customers located within the Village; however, for purposes of this Agreement, it is agreed that the term "Village Customers" shall not include any Customers located in County Special Service Area No. 5 or any Customers located on PINs 15-36-402-011 or 15-36-402-012, even though such Customers may be located in the Village.

2.34 Village of Riverwoods Sewer Service Area.

As defined in Recital E and as depicted on Exhibit A.

2.35 Village Sewerage System.

All Sanitary Sewers, lift stations, connection facilities, and related facilities, as well as associated land, easements, and rights-of-way, whether located within or without the Village, that the Village, from time-to-time, owns or operates for the purpose of, or related to, Collecting Sewage from individual Village Customers and delivering such Sewage to the County Interceptors in accordance with the County Sewer Ordinances. The Village Sewerage System contains five (5) lift stations within the Village located on or near the following streets: Chicory Lane, Thorngate Lane, Timberwood Lane, Trillium Lane and Whigham Lane. The Low Pressure Sewer System is also part of the Village Sewerage System, but the County is undertaking no responsibilities in this Agreement with respect to the operation, maintenance and repair of the Low Pressure Sewer System.

2.36 Village Water Mains.

The water mains owned and operated by the Village to supply and distribute potable water to any dwelling, business, office, industrial, institutional, or other building, facility, or entity located within the Village.

ARTICLE III

SANITARY SEWER SERVICE BY THE COUNTY

3.1 County Sewerage System Obligations.

The County shall, subject to the conditions precedent and limitations set forth in Article V of this Agreement, and to the other terms and conditions of this Agreement, use its best efforts to operate and maintain the County Sewerage System in accordance with its customary practices and sound engineering practices.

3.2 Village Right to Deliver Sewage to the County Sewerage System

The Village shall be permitted to Collect Sewage from Village Customers in the SEFPA and to deliver such Sewage to the County Sewerage System. The County agrees to accept such Sewage for Transport to and Treatment at the Des Plaines WRF, subject to and in accordance with the County Sewer Ordinances and the terms and conditions of this Agreement.

3.3 County to Be Exclusive Provider of Sanitary Sewer Service.

Except as provided in Section 3.5 below, the Village shall not, at any time during the term of this Agreement, (i) offer, authorize, or permit any Treatment of Sanitary Sewage within the Village other than such service as is delivered by the County by and through the County Sewerage System; (ii) construct, or cause, permit, or consent to the construction of, any Treatment facilities other than the County Sewerage System within the Village; or (iii) deliver Sanitary Sewage from properties within the Village by means of the Village Sewerage System to any interceptor Sanitary Sewer or Treatment facility other than the County Sewerage System without, in each such case, the prior written consent of the County.

3.4 Other Agreements, Service Areas.

Nothing in this Agreement shall be construed or interpreted as a waiver by the County or limitation of its authority under any other agreement or law governing the County's right to provide Sanitary Sewer Service within any portion of the County outside of the Village of Riverwoods Service Area, including any such portion of the County that may within any other municipality. Without limiting the foregoing, the County has the right to provide Sanitary Sewer Service to all properties located within the boundaries of County Special Service Area No. 5 and is responsible for all capital repairs and replacements to its Sanitary Sewers located in County Special Service Area No. 5, without contribution from the Village, and accordingly, notwithstanding anything to the contrary set forth in Sections 6.2 and 6.3 of this Agreement, the County shall not be obligated to remit to the Village the Replacement Reserve Percentage of User Charges collected from any Customers located within County Special Service Area No. 5 or any Customers located on PINs 15-36-402-011 or 15-36-402-012.

3.5 Alternative Provider of Sanitary Sewer Service.

A. Limited Right to Use Other Facilities. If, at any time after the Effective Date of this Agreement, the County is unable or unwilling to provide Sanitary Sewer Service as required by this Agreement for Village Customers, the Village may,

upon proper notice as provided in Subsection B of this Section 3.5, and without the consent of the County, make alternate arrangements for Sanitary Sewer Service with respect to such Sewage that the County is unable or unwilling to Collect, Transport or Treat.

B. Required Notice. Any notice required pursuant to Subsection 3.5A of this Agreement shall be in writing and shall be delivered to the County not less than ninety (90) days before the Village enters into any agreement or other arrangement for any Sanitary Sewer Service with respect to Sewage from the Village by any provider of Sanitary Sewer Service other than the County. Such notice shall specify the amount of Sewage that the Village intends to deliver to any other service provider and the basis for the Village's conclusion that the County cannot or will not provide Sanitary Sewer Service with respect to such Sewage. If, within ninety (90) days after such notice is delivered to the County, the County agrees in writing to provide the required Sanitary Sewer Service, the Village shall be required to take such Sanitary Sewer Service from the County pursuant to this Agreement rather than from any other service provider.

C. Individual Sewage Disposal Systems. There are certain lots in the Village which are served by individual sewage disposal systems. Provided any such septic system is serving not more than one detached single family dwelling, such system shall not be considered to be a Treatment facility for purposes of this Agreement.

ARTICLE IV

VILLAGE SEWERAGE SYSTEM

4.1 Village Sewerage System Obligations.

The Village shall, subject to the conditions precedent and limitations set forth in Section 5.1 of this Agreement, and to the other terms and conditions of this Agreement, use its best efforts to operate, maintain, and replace the Village Sewerage System in accordance with its customary practices and sound engineering practices.

4.2 Extensions to Village Sewerage System.

A. Permitted Extensions and Enlargements. The Village shall be permitted to extend, enlarge, or otherwise modify or improve the Village Sewerage System in any manner that the Village determines is necessary and appropriate in order to serve Village Customers; provided that any such extension, enlargement, modification, or improvement shall be undertaken in accordance with the terms of this Agreement.

B. Standards for Extensions or Enlargements. In the event that the Village elects to extend, enlarge, or otherwise modify or improve the Village Sewerage System, either directly or by owners, subdividers, or developers of any lot, tract, or parcel within the Village in connection with the development of any such lot, tract, or

parcel, the Village shall require any such extension, enlargement, modification, or improvement, to be designed, constructed, and installed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices. In fulfilling its responsibilities hereunder, the Village shall, at a minimum, undertake or cause to be undertaken, at no cost to the County, the following:

1. Obtain engineering services, from a firm experienced in the design of public sewerage systems, for the design, plans and specifications, and construction of any portion of the Village Sewerage System;
2. Obtain all easements, rights-of-way, licenses, and other property rights that are necessary or convenient to construct, install, operate, and maintain any portion of the Village Sewerage System, including the preparation of appropriate surveys, agreements, and other relevant documents;
3. Enter into contracts with firms experienced in the construction and installation of public sewerage systems;
4. Secure all permits, approvals, and authorizations that may be necessary or appropriate to construct, install, and operate the portion of the Village Sewerage System; and
5. Submit to the County, for the County's review and approval, all preliminary and final engineering plans and specifications and all permit applications for such new portions of the Village Sewerage System.

Further, the Village shall permit the County to conduct such reviews and inspections of the work required to be performed pursuant to this Subsection 4.2B as the County may deem necessary or appropriate to protect its interests.

C. County Obligations. Subject to the conditions and limitations set forth in Article V of this Agreement and to the other terms and conditions of this Agreement and subject, further, to all customary County fees and charges being paid, the County shall have the following obligations with respect to any extension, enlargement, modification, or improvement of the Village Sewerage System in the SEFPA:

1. The obligation to approve, when completed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices, all designs, all plans and specifications required to be prepared or supplied pursuant to this Section 4.2; and

2. The obligation to execute, when completed in accordance with this Agreement, the County Sewer Ordinances, all other requirements of law, and sound engineering practices, all permit applications required to be filed pursuant to this Section 4.2, but only when the signature of the County is required by the permitting agency.

ARTICLE V

CONDITIONS AND LIMITATIONS

5.1 Force Majeure.

Neither the County nor the Village shall be responsible for any failure to perform the undertakings, obligations, and commitments each has assumed pursuant to this Agreement to the extent caused by a Force Majeure.

5.2 Conditions Precedent to County Sanitary Sewer Service.

Notwithstanding any other provision of this Agreement, the right of any Village Customer to receive Sanitary Sewer Service from the County pursuant to this Agreement, and the County's obligation to provide Sanitary Sewer Services to any such Customer, shall be subject to all of the following conditions precedent having first been satisfied:

- A. Receipt by the County of all necessary governmental approvals to operate all of the components of the County Sewerage System as may be necessary to provide Sanitary Sewer Service to such Customer pursuant to this Agreement;
- B. Connection of such Customer to the Village Sewerage System in accordance with this Agreement;
- C. The ability of the County to provide Sanitary Sewer Service as required by this Agreement without violating any applicable laws or regulations, including the ability of the Des Plaines WRF to accept Sewage from the Village Sewerage System for treatment and disposal in compliance with all applicable laws and regulations and the legal right of the County to deliver said Sewage to said plant for such purposes;
- D. Payment of required Connection Charges to the County; and
- E. Compliance with all other terms and conditions of this Agreement.

5.3 Limitations on County Sanitary Sewer Service.

Notwithstanding any other provision of this Agreement, the right of the Village or Village Customer to receive Sanitary Sewer Service from the County pursuant to this Agreement, and the County's obligation to provide Sanitary Sewer Service pursuant to this Agreement, shall be subject to the following limitations:

- A. No new points of connection between the Village Sewerage System and the County Interceptors shall be permitted unless authorized in writing by the County Public Works Director, in which case the precise number, size, and location of such new connections shall be determined by the County, after consultation with the Village and consideration of the Village Comprehensive Plan and other Village ordinances, in accordance with sound engineering practices. In addition, the maximum infiltration rate for new Sanitary Sewers constructed within the Village Sewerage System shall conform to the rules and regulations of the Illinois Environmental Protection Agency or such other County Ordinances, of uniform application within the County Sewerage System, as may be adopted and enforced from time to time hereafter.
- B. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be on a first come-first serve basis and within the limits of available capacity.
- C. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be subject to the County Sewer Ordinances and all other applicable laws, ordinances, rules, and regulations, including any Pretreatment standards. Except as otherwise required by federal or state law, no amendment to the County Sewer Ordinances shall be enforced against the Village until the County shall have given the Village written notice of such amendment as provided in Section 6.2B.
- D. The Sanitary Sewer Service to be provided by the County pursuant to this Agreement shall be subject to all other terms and conditions of this Agreement.

ARTICLE VI

SPECIAL SERVICES; CHARGES AND FEES

6.1 Special Services.

In acknowledgment of the context under which the parties entered into the Prior Agreement, and in consideration of the mutual promises and covenants set forth

herein, the parties desire to continue a special relationship wherein the County agrees to provide the services described below with respect to the maintenance and emergency repair of the Village Sewerage System and the emergency repair of the Village Water Mains, even though the County normally does not provide such services for municipalities. Accordingly, unless the Village elects otherwise pursuant to Section 6.4 of this Agreement, the County agrees to act as an agent for the Village in performing the following services and functions ("**Special Services**"):

Emergencies

- A. Provide a 24-hour service number for Village Customers for backups and emergency breaks;
- B. Clear mainline sewer blockages by jetting or rodding;
- C. Perform emergency construction operations to repair isolated mainline breaks of Sanitary Sewers and Village-owned forcemains forming part of the Village Sewerage System; and
- D. Perform emergency construction operations to repair isolated mainline breaks occurring in Village Water Mains.

Operation and Maintenance

- A. Schedule and perform root cutting, cleaning, and televising of all Sanitary Sewers over a 10-year cycle in a manner consistent with County practices for preventative maintenance of the County Sewerage System;
- B. Perform preventative maintenance to Village-owned lift stations twice each year, including cleaning of wet wells;
- C. Provide maintenance and repairs to manholes on a spot basis (e.g., to reduce inflow and infiltration by raising and sealing an individual manhole frame); however, manhole adjustments required as part of street repair or reconstruction projects in the Village shall be handled as part of the such projects at Village expense;
- D. Act as billing agent for the Village on a monthly, bi-monthly or quarterly basis as the County may elect to bill Village Customers for County Connection Charges and Village Connection Charges;
- E. Remit the collected Replacement Reserve Charges and Village Connection Charges to the Village on a monthly basis; and

- F. Furnish the Village an annual report on the general condition of the components of the Village Sewerage System for which the County is providing preventative maintenance in order to assist the Village with planning for reserves and capital replacements.

Notwithstanding anything to the contrary set forth in this Agreement: the Village shall retain sole responsibility for operation, maintenance, repair and replacement of the Low Pressure Sewer System, and the County's obligations set forth above shall not apply in any respect to repairs or normal operation and maintenance of the Low Pressure Sewer System; also, the parties agree that operation and maintenance will not include general projects to provide lining of Sewers or actual replacement projects for Sewers or Village-owned lift stations that the Village has identified as needing replacement as part of a systematic program to upgrade, enhance (such as by providing control system upgrades or increased power supplies) or replace obsolete or failing Sewers or lift stations.

The County shall be reimbursed for its costs and expenses in performing Special Services out of the User Charges that it collects from Village Customers as provided in Section 6.2 below, except that its costs relative to repairing Village Water Mains shall be recouped pursuant to Section 6.7 below.

6.2 Rates and Charges.

A. Recognizing Need to Compensate County. Although the Village falls within the SEFPA, it has never been a typical municipality in which the County provides Sanitary Sewer Service because the Village has no public works department. As under the Prior Agreement, the County under this Agreement has agreed to maintain the local networks of collector Sanitary Sewers within the Village through the provision of Special Services. The manner of compensating the County for performing such Special Services is described in this Section.

B. Wholesale Rate. The Southeast Area Wholesale Rate, as of March 1, 2008, is a monthly rate of \$3.08 per 1,000 gallons, or \$24.64 per RCE. This User Charge is considered a "wholesale" rate because it expresses the County's cost of service for operating, maintaining and repairing County Interceptors and Treatment facilities (i.e., the Des Plaines WRF) but not the cost of service borne by the various municipalities within the SEFPA to own, operate, maintain and replace local networks of collector Sanitary Sewers within the SEFPA.

C. Southeast Area Retail Rate. The Southeast Area Retail Rate for Customers in unincorporated portions of the SEFPA, where the County owns the local collector Sanitary Sewers and therefore also maintains and replaces them, as of March 1, 2008, is a monthly rate of \$4.20 per 1,000 gallons or \$33.60 per RCE. The Southeast Area Retail Rate includes the County's cost

of service for operating, maintaining and repairing County Interceptors and Treatment facilities as well as its own local Sanitary Sewers, including capital replacements of such local Sanitary Sewers.

D. User Charges for Village Customers. After the date of this Agreement, the parties agree that the County will charge Village Customers User Charges at the Southeast Area Retail Rate (i.e., the rate that the County would otherwise charge from time to time to Customers in unincorporated portions of the SEFPA).

E. Allocating User Charges Received from Village Customers. Under this Agreement the County will perform Special Services that are atypical within a municipality that owns its own local sewers. Therefore, the parties agree to allocate User Charges collected at the Southeast Area Retail Rate from Village Customers as follows:

(i) For each billing cycle, the County will retain an amount equal to 100% of the amount of User Charges that would have been collected from Village Customers if the Southeast Area Wholesale Rate had been charged for such cycle;

(ii) For each billing cycle, the difference between the amount collected for User Charges from Village Customers at the Southeast Area Retail Rate and the amount of that would have been collected from Village Customers if the Southeast Area Wholesale Rate had been charged for such cycle is herein called the **"Additional User Charges"**;

(iii) For each billing cycle, the County will retain an amount equal to 55.6% of the Additional User Charges in order to compensate the County for its costs of providing the Special Services; and

(iv) For each billing cycle, the Village will be entitled to receive a remittance from the County of 44.4% of the Additional User Charges (such Village percentage of Additional User Charges is herein called the **"Replacement Reserve Percentage"**) and is agreed by the parties to represent that portion of the Additional User Charges which is reasonably necessary to enable the Village to increase replacement reserves, perform capital upgrades and replacements of the Village Sewerage System that are not furnished as Special Services hereunder); and

(v) Based on rates effective as of March 1, 2008, the difference between the Southeast Area Wholesale Rate and Southeast Area Retail Rate is \$8.96/month per Residential Equivalent, of which \$4.98/month per Residential Equivalent will be retained by the County, and \$3.98/month per Residential Equivalent will be remitted to the Village.

The preceding numbers are based on current rates and will be adjusted as rates are changed by the County in the future; and

(vi) The Replacement Reserve Percentage may be adjusted by amendment to the Agreement from time to time based on the difference between the Southeast Area Wholesale Rate and Southeast Area Retail Rate then in effect and the principles reasonably implemented of covering the County's costs of providing Special Services while returning to the Village an amount that the County avoids spending by virtue of the Village's obligation to perform major repairs and replacements to the Village's local network of Sanitary Sewers.

6.3 Billing.

A. Remittance of User Charges to the Village. The Village will be entitled to receive its Replacement Reserve Percentage of User Charges fees collected by the County, and the County will remit such amount to the Village within 30 days after each billing cycle in which the County invoices Village Customers. User Charges for Customers in County Special Service Area No. 5 or any Customers located on PINs 15-36-402-011 or 15-36-402-012 shall not be subject to the foregoing remittance provisions of Section 6.2E and 6.3, as provided in Section 3.4 above.

B. Adjusting County User Charges. The County may adjust its User Charges for the SEFPA to such levels as are designed to assure that County revenues from such fees will always be sufficient, when considered in light of any other monies legally available for and applied to such purposes, (i) to provide adequate and proper levels of service; (ii) to pay the County's costs of maintenance, replacement, and operation; (iii) to pay the principal of, and premiums and interest on, bonds secured, in whole or in part, by the revenues of the County Sewerage System; (iv) to provide a reasonable depreciation fund; and (v) to provide such other reserves and sinking funds as may be deemed necessary or desirable by the County for the payment of such bonds and for the replacement, extension, and improvement of the County Sewerage System.

C. Billing and Collection. With respect to the Replacement Reserve Percentage of Additional User Charges, the County will act as the Village's billing agent pursuant to this Agreement. The County may elect to invoice Village Customers on a monthly, bi-monthly or quarterly basis, as the County may elect. All fees and charges collected by the County, when acting as such billing agent, shall be applied first, to the County's costs of enforcing collection, then to the User Charges due the County before allocation of the Additional User Charges; and lastly, the revenues derived from the Additional User Charges will be allocated between the County and the Village as provided in Section 6.2 above. Subject to the preceding sentence, the County shall pay the Replacement Reserve Percentage of User Charges to the Village within 30 days after collection.

D. Defaulted Payment. If any bill to a Village Customer for User Charges shall remain unpaid for twenty (20) days following its quarterly due date, a penalty of ten percent (10%) of the unpaid billing shall be assessed, and, upon failure of the Village Customer to pay such amounts then due, the County may, after notifying the Village of the delinquency, enforce payment by any legal or equitable remedy, including the termination of service or the filing of a lien against the property involved. The County and the Village will coordinate enforcement measures by adopting complementary provisions in their ordinances with respect to penalties for non-payment of User Charges.

6.4 County and Village Connection Charges.

A. Connection Charges. The County, from time to time, may establish Connection Charges for the areas within the Village which may vary to account for different capital replacement needs, but all Connection Charges imposed on Customers located within the corporate limits of the Village shall be uniform with the Connection Charges imposed on all other Customers not resident within the Village who are tributary to the same County Sewers.

B. Adjusting County Connection Charges. The County may adjust the Connection Charges for new Customers connecting to County Sanitary Sewers whenever deemed necessary or desirable by the County to meet financial obligations of, or to defray costs relating to, the County Sewerage System, provided that such Connection Charges shall at all times be reasonable and uniform among all Customers of the County Sewerage System receiving similar Sanitary Sewer Services (i.e., uniform Connection Charges for Customers who are tributary to the same County Sanitary Sewers).

C. Billing and Collection of County and Village Connection Charges. The County shall collect from every Village Customer hereafter making a new connection, either directly or indirectly, to the County Sewerage System the County Connection Charge established in accordance with this Agreement and the County Sewer Ordinances. Whenever a connection is to be made to the Village Sewerage System, the Village shall notify the County in writing in advance of the applicable Village Connection Charge. The County shall act as billing agent for the Village by collecting from any Customer the Village Connection Charge at the same time as it bills the Customer for the County Connection Charge. The County shall remit the Village Connection Charge to the Village within sixty (60) days after collection. The County and the Village shall each retain the right to separately pursue and enforce collection of their respective, unpaid connection charges. The replacement or repair of an existing connection for a single-family home with a new connection for a new or improved single-family home shall not be considered a new connection and shall not be subject to any County Connection Charge.

D. Cooperation to Mandate Payment of County Collection Charges. The Village agrees that it will not issue any certificate of occupancy for any structure (for

which payment of the County's Connection Charges is a condition precedent) until the County's Connection Charges have first been paid in full.

6.5 Notices Before Adjusting County Connection Charges and User Charges. Adjustments in County Connection Charges or County User Charges shall become effective ninety (90) days following delivery of written notice by the County of the adjustment to the Village. The County shall provide such additional information that the Village may reasonably request relating to an adjustment; provided, however, that such request for additional information does not prevent the County from collecting the adjusted Connection Charges or User Charges from Village Customers.

6.6 Determining Residential Customer Equivalents.

In determining the number of Residential Customer Equivalents for imposing User Charges or Connection Charges for uses other than single-family homes or dwelling units in multifamily developments, the County and the Village agree that one Residential Customer Equivalent (RCE) is equal to 250 gallons per day, that for various uses the coefficients set forth in **Exhibit D** shall apply and that they will otherwise generally follow accepted engineering standards. To assist in determining the user charge, the County shall have the right to inspect the plants and building and shall have permission to take samples of the sewage discharges. An additional charge (surcharge) may be required for sewage or wastes of unusual quality or strength and volume or composition requiring special treatment, or the County may require pre-treatment. The County reserves the right to refuse any wastes it considers detrimental to the County Sewerage System. The user charges and surcharges to be paid for industrial, commercial and institutional customers shall be pro-rated on the basis of Residential Customer Equivalents of waste water to be treated, as determined by the County.

6.7 Water Main Repairs; Water Repair Charges.

This Agreement does not require the County to supply public water to the Village. The Village obtains its water supply pursuant to intergovernmental agreements with other municipalities and operates (or uses independent contractors to operate) its reservoirs, pumps and related equipment. Nevertheless, the County agrees to act in a standby, 24-hour emergency capacity, as the Village's agent, with manpower, equipment and supplies, to perform necessary emergency repairs to the Village Water Mains which from time to time may arise in connection with water main breaks, sinkholes and similar occurrences. After each calendar quarter, the County shall bill the actual costs incurred of such repairs occurring for the calendar quarter then ended. The Village agrees that, in order to compensate the County for its administrative expenses for performing such services, the County shall receive ten percent (10%) of the cost of labor, materials and equipment required for the performance of its duties hereunder as such administrative expenses. The County will, on a quarterly basis, furnish the Village with an itemized report of the costs of labor, materials, equipment and administrative expenses involved in the performance of these services. The Village shall pay each quarterly invoice within 30 days of billing from the County.

6.8 Termination of Special Services.

If the Village, at its option, shall elect to form its own public works department or to contract with a third party for the provision of the Special Services, then upon not less than ninety (90) days written notice to the County prior to the date on which responsibility for performing such services shall be transferred, the Village shall instruct the County to cease providing such services. There shall be no fee, penalty or premium payable by the Village for exercising such privilege. In such event, the Replacement Reserve Percentage provided in Section 6.2.E shall be renegotiated.

ARTICLE VII

OWNERSHIP AND MAINTENANCE

7.1 County Sewerage System.

The County shall retain ownership of all Sewers and other facilities in the County Sewerage System that it now owns, or that it may in the future construct, or that it may in the future accept dedication of from the Village or any other person or entity. The County shall maintain and operate the County Sewerage System and shall bear all risk of loss or damage to each said system, all at its sole cost.

7.2 Village Sewerage System.

The Village shall retain ownership of all Sewers and related facilities in the Village Sewerage System that it now owns or that it may in the future construct, or that it may in the future accept dedication of from any person or entity, including but not limited to any future extensions thereto that are now located or that may be located within the Village. The Village shall maintain and operate the Village Sewerage System (excepting the Special Services to be performed by the County pursuant to this Agreement) and shall bear all risk of loss or damage to said system, all at its sole cost.

ARTICLE VIII

OTHER CONTRACTS AND SERVICES

8.1 Village Acknowledgements.

The Village acknowledges and agrees that: (i) the County does not act or operate as a public or private utility; (ii) the County does not act or operate in a business or proprietary capacity in providing Sanitary Sewer Service to lots, tracts, parcels, or areas within the Village; (iii) the County does not by this Agreement, or its performance pursuant to this Agreement, hold itself out as offering to, and is under no obligation to, provide Sanitary Sewer Service to any lot, tract, parcel, or area other than lot, tracts, parcels, or areas located within the Village; and (iv) the County's sole obligation to

provide Sanitary Sewer Service to lots, tracts, parcels, or areas within the Village is the contractual obligation set forth in this Agreement.

8.2 Other County Service.

Nothing in this Agreement shall be construed or interpreted to prevent or limit the right of the County, or to require the consent of the Village, to provide Sanitary Sewer Service to parties other than the Village on such terms and conditions as the County may, in its sole discretion, determine to be appropriate, including, without limitation, Sanitary Sewer Service utilizing the County Sewerage System; provided, however, that the County shall not provide Sanitary Sewer Service within the Village except in accordance with the terms and conditions of this Agreement.

8.3 No Third Party Beneficiaries.

Nothing in this Agreement shall create, or be construed or interpreted to create, any third party beneficiary rights.

ARTICLE IX

LEGAL RELATIONSHIPS AND REQUIREMENTS

9.1 Exhibits.

Exhibit A, Exhibit B, Exhibit C and Exhibit D attached to this Agreement are, by this reference, incorporated into and made a part of this Agreement.

9.2 Entire Agreement: Extension of Prior Sewage Agreement.

There are no representations, covenants, promises, or obligations not contained in this Agreement that form any part of this Agreement or upon which either of the parties is relying in entering into this Agreement. In addition, this Agreement is intended to restate, amend and extend the provisions of the Prior Sewage Agreement (including all amendments thereto).

9.3 Amendments.

Except as expressly provided otherwise in this Agreement, this Agreement shall not be modified, changed, altered, amended, or terminated without the written and duly authorized consent of the County and the Village.

9.4 Waivers.

No term or condition of this Agreement shall be deemed waived by either party unless the term or condition to be waived and the circumstances giving rise to

such waiver are set forth specifically in a duly authorized and written waiver of such party. No waiver by any party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition of this Agreement, nor shall waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provisions of this Agreement.

9.5 Interpretation and Severability.

It is the intent of the County and the Village that this Agreement be construed and interpreted so as to preserve its validity and enforceability as a whole. In case of any conflict among the provisions of this Agreement, the provision that best promotes and reflects the intent of the parties shall control. If any provision of this Agreement is construed or held to be void, invalid, or unenforceable in any respect, the remaining provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.

9.6 Regulatory Bodies.

This Agreement shall be subject to all valid rules, regulations, and laws applicable hereto passed and promulgated by the United States of America, the State of Illinois, or any other governmental body or agency having lawful jurisdiction, or any authorized representative or agent of any of them; provided, however, that this Section 9.6 shall not be construed as waiving the right of any party to challenge the validity of any such rules, regulations, or laws on any basis, including the impairment of this Agreement. The County reserves the right to adopt ordinances, rules, and regulations governing the design, installation, and use of the County Sewerage System.

9.7 Successors; Assignment.

Neither party hereto shall have the right to assign this Agreement or any of its rights and obligations hereunder or to terminate its obligations hereunder by dissolution or otherwise without first securing the written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

9.8 Effective Date and Term.

A. Effective Date. This Agreement shall take effect as of the date first above written when executed by the duly authorized representatives of the County and the Village.

B. Term. This Agreement shall be in full force and effect for a period of twenty (20) years from and after its Effective Date and thereafter shall automatically renew for one (1) additional term of ten (10) years, unless either party shall give notice to the other party at least one (1) year in advance of the scheduled expiration date of its intent not to renew this Agreement..

9.9 **Notices.**

All notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof when delivered in person or by express mail or messenger at the address set forth below or three business days after deposit thereof in any main or branch United States post office, certified or registered mail, return receipt requested, postage prepaid, properly addressed to the parties, respectively, as follows:

For notices and communications to the County:

County of Lake
18 North County Street
Waukegan, Illinois 60065
Attn: County Administrator

and

Lake County Department of Public Works
650 Winchester Road
Libertyville, Illinois 60046
Attn: Superintendent

For notices and communications to the Village:

Village of Riverwoods
300 Portwine Rd.
Riverwoods, IL 60015

By notice complying with the foregoing requirements of this Section 9.9, each party shall have the right to change the addressees or addresses or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

9.10 **Execution in Counterparts.**

This Agreement may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute one and the same Agreement.

9.11 **Enforcement.**

A. **Remedies.** The parties hereto may in law or in equity enforce or compel the performance of this Agreement and shall otherwise have all remedies provided by applicable United States of America, State of Illinois, and local laws,

ordinances, rules, and regulations, except that neither the Village nor the County shall seek or recover monetary damages against the other or any of the other's officials, agents, representatives, attorneys, or employees on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement.

B. Attorney Fees. Each party shall bear its own costs and expenses (including attorneys' fees) incurred in any judicial or administrative proceeding brought for enforcement or breach of any provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written.

VILLAGE OF RIVERWOODS

By: _____
Village President

ATTEST:

Village Clerk

COUNTY OF LAKE

By: _____
Chairman, Lake County Board

ATTEST:

County Clerk

Village of Riverwoods Sewer Service Area And Sub-area of Low Pressure Sewer System



EXHIBIT B **Village of Riverwoods Sewer Service Area** **Sub-areas of Reciprocal Sewer Services between Lincolnshire and Riverwoods;** **County SSA #5 boundary; and County Interceptors located in Riverwoods**

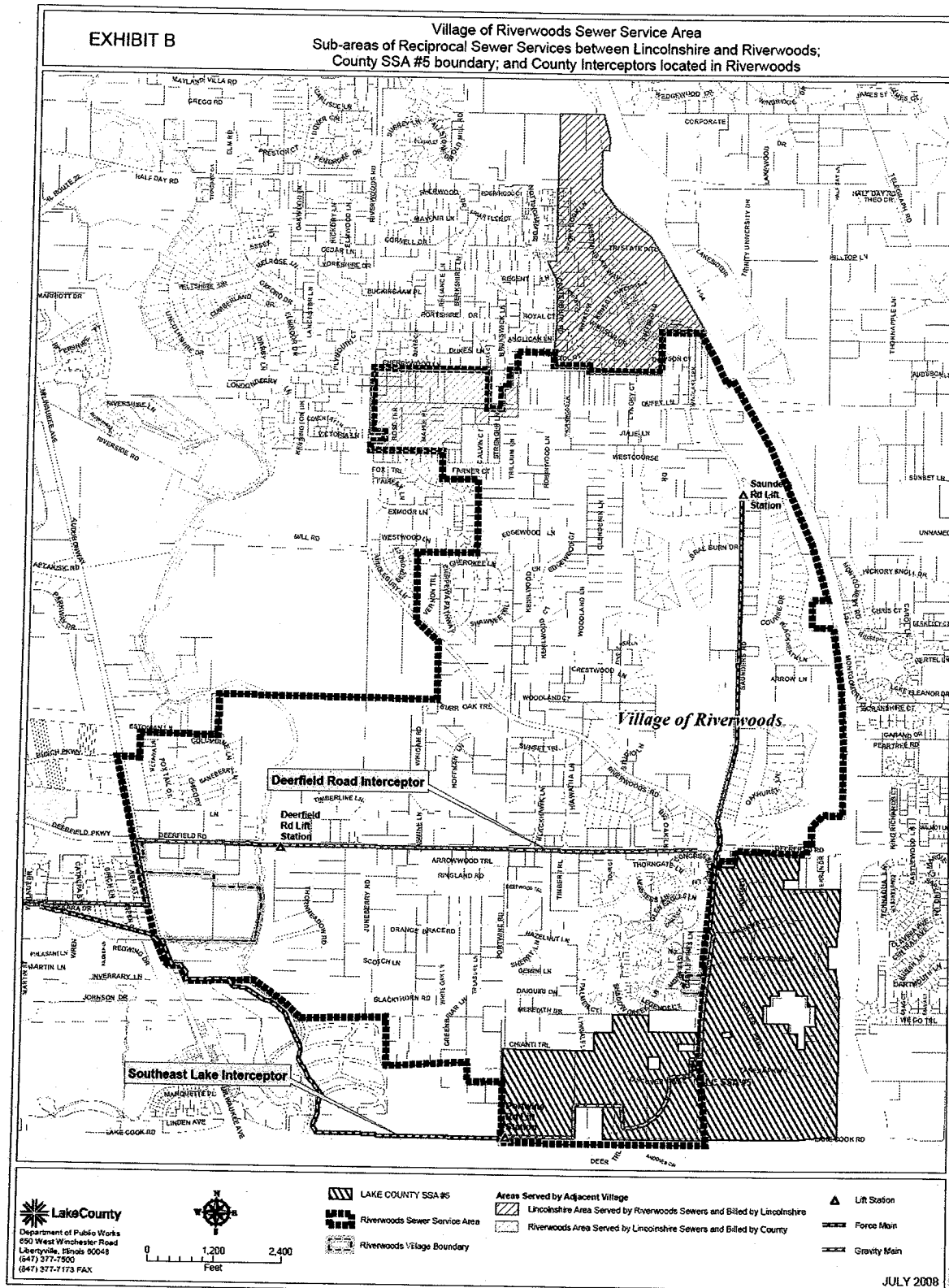


EXHIBIT C

Village of Riverwoods Sewer Service Area

Sub-areas for Connection Fees for Different Lift Stations

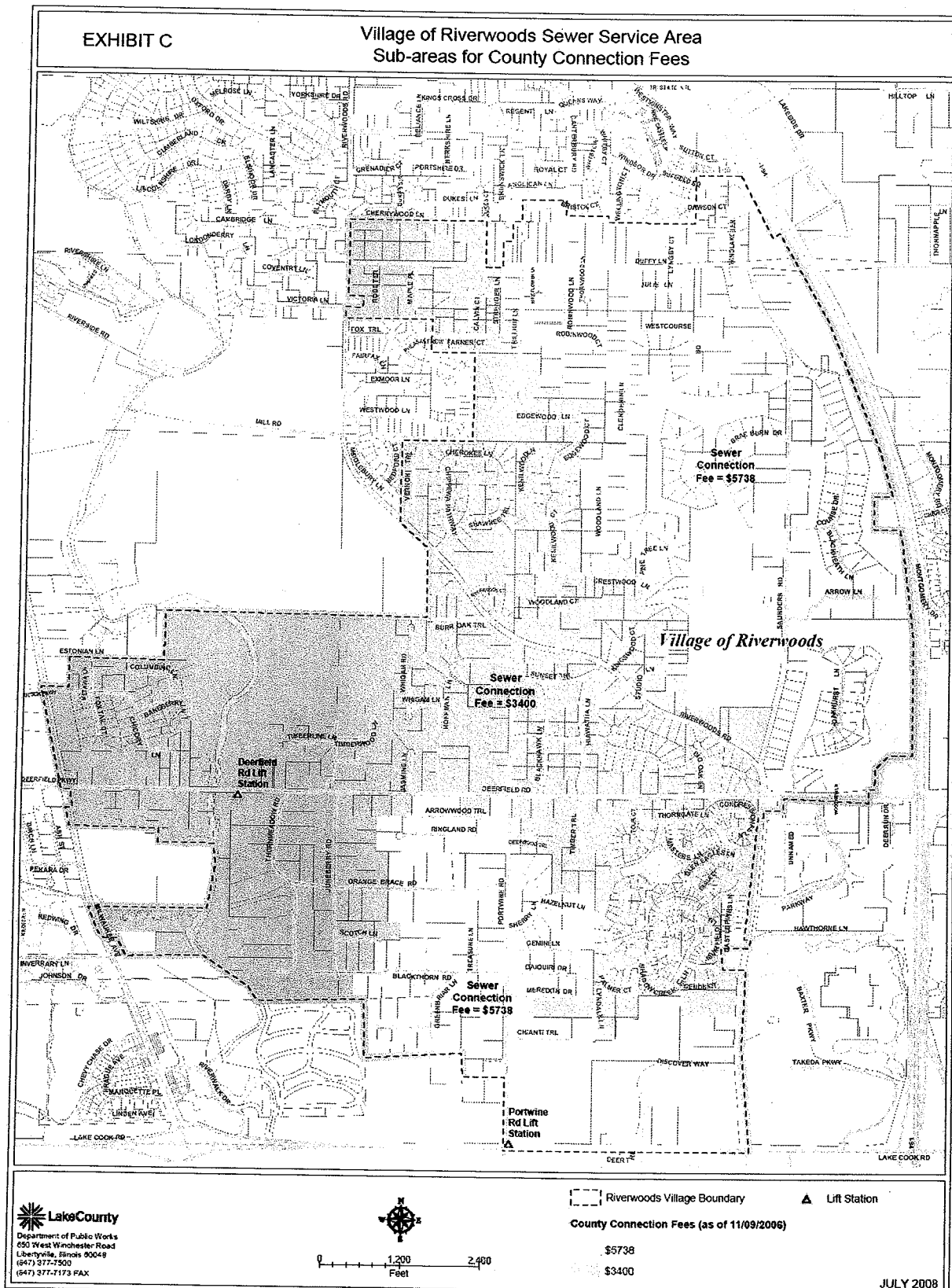


EXHIBIT D
Village of Riverwoods Sewer Service Area
Coefficients for Determining Residential Customer Equivalent

Village of Riverwoods Sewer Service Area

Exhibit D

Coefficients for Determining Residential Customer Equivalents

Use	Coefficient	Gallons / day per:
New office bldg	0.1	square ft
Old office bldg	0.142	square ft
Jail & Prison	133	Person
Restaurant (see below)	24.2	Seat
Drive-In Restaurant	109	Car Stalls
Night Club	1.33	Person served
Retail space	0.106	Sale Sq Ft
School - Elem	3.83	Student
School - High	8.02	Student
YMCA	33.3	Person
Service Station	0.251	Inside sf
Theaters	3.33	Seat
Warehouse	0.025	square ft
Barber Shop	54.6	Barber chairs
Beauty Shop	269	Station
Bsu-Rail Depot	3.33	square ft
Car Washes	4.78	Inside sf
Churches	0.138	member
Golf-Swim Clubs	22.2	member
Bowling Alley	133	Alley
College Resid.	106	Student
Hospitals	346	Bed
Hotels	0.256	square ft
Laundromats	2.17	square ft
Laundry	0.253	square ft
Medical Offices	0.618	square ft
Motels	0.224	square ft
Drive-In Movies	5.3	Car Stalls
Nursing Homes	133	Bed
Firehouse	250	each
Restaurant w/dinnerware	24.2	Seat
Restaurant w/o dinnerware	15	Seat
Restaurant bar seats	15	Seat
Private Pool	2.5	resident
Fleet Service Garage, no retail gasoline sales, no washes	0.106	square ft

Notes:

1. One Residential Customer Equivalent (RCE) is equal to 250 gallons per day for purposes of calculating non-residential uses.
2. Areas are gross building areas unless otherwise noted.
3. Prorate outside seating for restaurants at 5/12 months per year
4. Unenclosed areas under roof such as garden centers and lumber yards with retail building have 0.00 coefficient

Example Calculation:

New 10,000 sf Office Building
 $10,000 \text{ sf} \times 0.1 \text{ gpd/sf} = 1,000 \text{ gpd}$
 $1,000 \text{ gpd} / (250 \text{ gpd/RCE}) = 4 \text{ RCE}$